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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON**

TOM GARDNER,) Case No. CV-11-3050-RHW
)
Plaintiff,) **COMPLAINT FOR VIOLATION**
) **OF FEDERAL FAIR DEBT**
 vs.) **COLLECTION PRACTICES ACT**
)
NORTHSTAR LOCATION)
SERVICES, LLC,)
)
Defendant.)

NATURE OF ACTION

1. This is an action brought under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*, and the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 15 U.S.C. § 1692k(d), 47 U.S.C. § 227(b)(3), 28 U.S.C. § 1331, and 28 U.S.C. § 1367(a).

**COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT-1**

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3. Venue is proper before this Court pursuant to 28 U.S.C. §1331(b), where the acts and transactions giving rise to Plaintiff's action occurred in this State and this district, where Plaintiff resides in this State and this district, and where Defendant transacts business in this State and this district.

PARTIES

4. Plaintiff, Tom Gardner (“Plaintiff”), is a natural person who at all relevant times resided in the State of Washington, County of Yakima, and City of Yakima.

5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

6. Defendant, Northstar Location Services, LLC (“Defendant”) is an entity who at all relevant times was engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C. §1692a(5).

7. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

8. Plaintiff is a natural person obligated, or allegedly obligated, to pay a debt owed or due, or asserted to be owed or due a creditor other than Defendant.

9. Plaintiff's obligation, or alleged obligation, owed or due, or asserted to be owed or due a creditor other than Defendant, arises from a transaction in

1 which the money, property, insurance, or services that are the subject of the
2 transaction were incurred primarily for personal, family, or household purposes.
3

4 10. Defendant uses instrumentalities of interstate commerce or the mails
5 in a business the principal purpose of which is the collection of any debts, and/or
6 regularly collects or attempts to collect, directly or indirectly, debts owed or due,
7 or asserted to be owed or due another.

8 11. Within one (1) year preceding the date of this Complaint, Defendant
9 made and/or placed a telephone call to Plaintiff's cellular telephone number, in
10 effort to collect from Plaintiff an obligation, or alleged obligation, owed or due,
11 or asserted to be owed or due a creditor other than Defendant.

12 12. Within one (1) year preceding the date of this Complaint, Defendant
13 willfully and knowingly utilized an automatic telephone dialing system to make
14 and/or place a telephone call to Plaintiff's cellular telephone number, in effort to
15 collect from Plaintiff an obligation, or alleged obligation, owed or due, or asserted
16 to be owed or due a creditor other than Defendant.

17 13. Defendant placed repeated and continuous telephone calls to
18 Plaintiff's cellular telephone for the purpose of harassing, annoying and/or
19 abusing Plaintiff. (15 U.S.C. § 1692d(5)).

1 14. On or about January 25, 2010, Defendant, in connection with an
 2 attempt to collect an alleged debt from Plaintiff, communicated with Plaintiff's
 3 neighbor, Dennis Charlotte, for purposes other than obtaining location
 4 information, and at such time, disclosed its identity to said third party without a
 5 request for such information being made, and furthermore, disclosed to said third
 6 party that Plaintiff owed an alleged debt. (15 U.S.C. §§ 1692b, 1692b(1),
 7 1692b(2), 1692c(b)).

11 15. Defendant, in connection with the collection of an alleged debt from
 12 Plaintiff, placed calls to Plaintiff's cellular telephone on Monday 1/24/11 at 2:51
 13 P.M. and Tuesday 1/25/11 @ 10:52 AM, and in each such instance, left voicemail
 14 messages for Plaintiff in which Defendant failed to disclose its true corporate
 15 and/or business name, and further failed to notify Plaintiff the calls were from a
 16 debt collector. (15 U.S.C. §§ 1692d(6), 1692e(11)).

19 16. Defendant, in connection with the collection of an alleged debt from
 20 Plaintiff, placed calls to Plaintiff's cellular telephone on 1/25/11 at 3:34 P.M., as
 21 at such time, left Plaintiff a voicemail message in which Defendant represented
 22 that the call was with regard to a "serious time sensitive matter" that required that
 23 Plaintiff "call [Defendant] back immediately." In so doing, Defendant
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 25
 26
 27

misrepresented a heightened sense of urgency for the purpose of deceiving Plaintiff into returning the call. (15 U.S.C. § 1692e(11)).

17. Defendant placed multiple non-emergency calls to Plaintiff's cellular telephone, without the prior express consent of Plaintiff, using an automatic telephone dialing system. (47 U.S.C. 227(b)(1)(A)(iii)).

18. Defendant's actions constitute conduct highly offensive to a reasonable person.

COUNT I

19. Plaintiff repeats and re-alleges each and every allegation contained above.

20. Defendant violated the FDCPA as detailed above.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated the FDCPA;
- b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k, in the amount of \$1,000.00;
- c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
- d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;

1 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
2 may be allowed under the law;
3
4 f) Awarding such other and further relief as the Court may deem just
5 and proper.

6
7 **COUNT II**

8 21. Plaintiff repeats and re-alleges each and every allegation contained
9 above.

10 22. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by willfully and
11 knowingly utilizing an automatic telephone dialing system to make and/or place a
12 telephone call to Plaintiff's cellular telephone number.

13 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

14
15 a) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii);
16
17 b) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. §
18 227(b)(3)(B), in the amount of \$500.00 per violation;
19
20 c) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. §
21 227(b)(3)(C), in the amount of \$1,500.00 per violation;
22
23 d) Awarding Plaintiff actual damages, pursuant to 47 U.S.C. §
24 227(b)(3)(B);
25
26
27

1 e) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
2 this action;
3
4 f) Awarding Plaintiff any pre-judgment and post-judgment interest as
5 may be allowed under the law.

6
7 **TRIAL BY JURY**

8 Plaintiff is entitled to and hereby demands a trial by jury.
9

10 Respectfully submitted this 2nd day of May, 2011.

11
12
13 s/Jon N. Robbins
14 Jon N. Robbins
15 WEISBERG & MEYERS, LLC
Attorney for Plaintiff